



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3671-00

22 June 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting, in effect, that he transferred to the Retired Reserve vice being discharged on 1 April 1996.

2. The Board, consisting of Mr. Zsalman, Mr. Bartlett and Ms. Gilbert, reviewed Petitioner's allegations of error and injustice on 20 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Naval Reserve on 2 April 1992 for four years and continued on active duty in the Training and Administration of the Reserves (TAR) program. On 1 April 1996 he was issued a DD Form 214 showing that he was being released from active duty and transferred to inactive reserve status. However, his four year enlistment also expired on that date and he had no status in the Naval Reserve after 1 April 1996. At the time of his discharge, his rate was HM2 (E-5).

d. On 19 January 2000 Petitioner was issued a Notification of Eligibility for Retired Pay at Age 60 (NOE) and a statement of

service showing that he had 24 years, 5 months and 14 days of qualifying service for reserve retirement. The statement of service shows that he was discharged on 1 April 1996 and the NOE was addressed to him as a former member of the Naval Reserve.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel Command has routinely recommended favorable action in similar cases where an individual was qualified for reserve retirement and there is no explanation in the record why they were discharged and not retired.

f. The Board is also aware that the Uniform Retirement Date Act 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that Petitioner was in good standing in the Naval Reserve and would have been retired if he had requested it. Given the circumstances, the Board concludes that he should be transferred to the Retired Reserve in the rate of HM2.

Since Petitioner was discharged on 1 April 1996, he cannot be retired on that date as required by the Uniform Retirement Date Act because he would lose one day of pay. Therefore, the Board concludes that the four year enlistment of 2 April 1992 should be extended for a period of one month and he should be transferred to the Retired Reserve effective 1 May 1996.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Naval Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his four year enlistment of 2 April 1992 was extended for a period of one month and that he then transferred to the Retired Reserve on 1 May 1996 in the rate of HM2.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

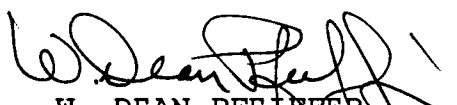
complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director